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9 UNITED STATES BANKRUPTCY COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 LOS ANGELES DIVISION

12 In re:) Case No. 2:20-bk-21022-BR
13)
14 GIRARDI KEESE,) Chapter 7
15)
16 Debtor.) MOTION FOR ORDER:
17)
18) 1. APPOINTING ROBERT GIRARDI AS
19) DEBTOR'S GUARDIAN AD LITEM; AND
20) 2. EXTENSION OF TIME TO FILE
21) RESPONSIVE PLEADING;
22) DECLARATION OF ROBERT GIRARDI
23)
24) [HEARING TO BE SET]

25 **TO THE HONORABLE BARRY RUSSELL, UNITED STATES BANKRUPTCY**
26 **JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, AND ALL**
27 **PARTIES IN INTEREST:**

28 Robert Girardi ("RG"), files this motion for (1) an order
Pursuant Fed. R. Bankr. P. 1004.1 to appoint him "next friend"
as Guardian ad Litem for alleged debtor Girardi Keese ("Debtor")
and for (2) an extension of time to file a responsive pleading
to involuntary petitions pending against the Debtor and his
partnership ("Motion").

1 The RG seeks an order from the Court appointing him the
2 Debtor's guardian ad litem and extending the deadline to respond
3 to the involuntary petitions to and including February 12, 2021.
4

5 January 13, 2021

PEÑA & SOMA, APC

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8 By /S/ LEONARD PEÑA
LEONARD PEÑA
9 Attorneys for Robert Girardi
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1 **I. MEMORANDUM OF POINTS AND AUTHORITIES**

2 **a. Relevant Facts**

3 On December 18, 2020, the petitioning creditors filed two
4 involuntary petitions *In re Thomas Vincent Girardi* case number
5 20-bk-21020 BR and *In re Girardi Keese* case number 20-bk-2102 BR
6 ("Involuntary Petitions").

7 The deadline to file a responsive pleading to the
8 Involuntary Petitions is January 12, 2021.

9 Thomas Vincent Girardi ("TG") is the sole responsible
10 officer of the Debtor and while appears to be aware of the
11 filing of the Involuntary Petitions he needs to be reminded
12 often. TG is incapable of realizing and understanding the
13 repercussions of the bankruptcy filings pending against him and
14 the Debtor. Furthermore, the TG is not capable of making
15 rational decisions with respect to his or the Debtor's financial
16 responsibilities.

17 The Debtor has been unable to engage bankruptcy counsel or
18 respond to the Involuntary Petitions due to TG's inability to
19 discuss, in a competent manner, the Debtor's legal and financial
20 issues with proposed counsel.

21 Robert Girardi ("RG") is TG's brother. In addition to the
22 filing of this Motion, RG will file a petition in the Probate
23 Court to be appointed TG's conservator.

24 RG is willing to assist TG and the Debtor in all matters
25 related to the bankruptcy proceedings, including but not limited
26 to hiring counsel for the Debtor, responding to the Involuntary
27 Petitions, appear at hearings, investigate, prepare documents,
28 file pleadings, schedules and statements of financial affairs

1 and take all actions required by the Debtor in the cases pending
2 before this Court.

3 RG desires to be appointed the Debtor's guardian ad litem
4 and or next friend.

5 Appointing RG as is "next friend" as guardian ad litem will
6 aid in administration of the Debtor's case.

7 **b. Legal Argument**

8 **i. RG Should Be Appointed The Debtor's Guardian Ad**
9 **Litem.**

10 TG is incompetent and unable to act on behalf of the Debtor
11 or for himself. Proceeding with the Involuntary Petitions
12 without permitting the Debtor to participate would be a terrible
13 injustice and it unnecessary harm and prejudice.

14 Federal Rule of Bankruptcy Procedure 1004.1 states in
15 relevant part:

16 Rule 1004.1. Petition for an Infant or Incompetent Person
17 Primary

18 If an infant or incompetent person has a representative,
19 including a general guardian, committee, conservator, or
20 similar fiduciary, the representative may file a voluntary
21 petition on behalf of the infant or incompetent person. An
22 infant or incompetent person who does not have a duly
23 appointed representative may file a voluntary petition by
24 next friend or guardian ad litem. The court shall appoint
guardian ad litem for an infant or incompetent person who
is a debtor and is not otherwise represented or shall make
any other order to protect the infant or incompetent
debtor.

25 The language in FRBP 1004.1 is mandatory that the Court
26 "shall" appoint the guardian ad litem to protect the incompetent
27 Debtor. Here, that could not be truer, here, the Debtor's
28 responsible person is incompetent while at the same time the

Debtor is facing serious legal hurdles that could upend the Debtor's business and the responsibilities it has to its many clients.

ii. Extension Of Time To Respond To Voluntary Petitions.

Presently, the Debtor cannot respond to the Involuntary Petitions because its sole officer is unable to act and can only do so through RG and lawyers that may be hired for the Debtor. Entering an order for relief without permitting the Debtor to respond to the Involuntary Petitions would be an injustice.

RG requests that the deadline to file responses to the Involuntary Petitions be extended to and including February 12, 2021 to permit the prosecution of a probate petition to appoint RG as the Debtor's conservator.

II. CONCLUSION

For the foregoing reasons, Movant requests that he be appointed the Debtor's guardian ad litem and that the deadline to oppose the Involuntary Petitions be extending to an including February 12, 2021.

January 13, 2021

PEÑA & SOMA, APC

By /S/ LEONARD PEÑA
LEONARD PEÑA
Attorneys for Robert Girardi

DECLARATION OF ROBERT GIRARDI

I, Robert Girardi, declare:

1. I have personal knowledge of the facts set forth below, and if called to testify, I would and could competently testify thereto.

2. I am Thomas Girardi's brother.

3. I am aware that on December 18, 2020 the petitioning creditors filed two involuntary petitions *In re Thomas Vincent Girardi* case number 20-bk-21020 BR and *In re Girardi Keese* case number 20-bk-21022 ("Involuntary Petitions").

4. I am informed and believe that the deadline to file a responsive pleading to the Involuntary Petitions is January 12, 2021.

5. I have attempted to discuss with my brother how to best respond to the Involuntary Petitions pending against the Debtor and while at times the he appears to be aware of the filing of the Involuntary Petitions he needs to be reminded often.

6. My brother is incapable of realizing and understanding the repercussions of the bankruptcy filings pending against him and his law firm Girardi Keese notwithstanding having explained to him over and over and by various people. Furthermore, my brother is not capable of making rational decisions with respect to his financial responsibilities and offers solutions and opinions that are factually impossible.

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1 7. My brother has short term memory loss, often asking me
2 and those around him the same questions over and over.

3 8. My brother has been unable to engage bankruptcy
4 counsel or respond to the Involuntary Petitions because he
5 cannot have a reasoned conversation about the multiple legal and
6 financial issues he is facing.

7 9. I have engaged counsel to file a petition in the
8 Probate Court to be appointed my brother's conservator. I am
9 informed by my attorneys that even on an expedited basis, given
10 the notice requirements I will not be appointed until sometime
11 at the end of January 2021.

12 10. Given my brother's current condition I am willing to
13 assist him all way possible and in all matters related to his
14 personal matters and the pending bankruptcy proceedings,
15 including but not limited to hiring counsel for him, responding
16 to the Involuntary Petitions, appear at hearings, investigate,
17 prepare and file documents, and take all actions required of my
18 brother in the cases pending before this Court.

19 11. I am informed and believe that once I am appointed my
20 brother's conservator, I will be able to act on his behalf
21 including to hire lawyers or other professionals for him that
22 can help him through the bankruptcy cases.

23 12. In the present case, I and my brother require
24 additional time to analyze and compile the information needed to
25 respond to the Involuntary Petitions.

26 13. My brother has always been a private person, so I need
27 to familiarize myself with his assets and liabilities, talk to
28 his accountants and gather information related to his assets,

1 liabilities and multiple legal and personal challenges he is
2 facing.

3 15. I want to do everything necessary to protect my
4 brother's rights including responding to the Involuntary
5 Petitions, I think that if he is not allowed to respond it will
6 be a great detriment to him personally and financially.

7 16. Thus, I respectfully submit that since the Court has
8 already appointed interim chapter 7 trustee in both his personal
9 and business case I do not believe that any of the Debtor's
10 creditors will be prejudiced by the extension of time requested
11 herein as the trustee have already begun to administer the
12 estates' assets.

13 I declare under penalty of perjury under the laws of the
14 United States of America that the foregoing is true and correct
15 to the best of my knowledge.

16 Executed on this 12th day of January 2021, at Los Angeles,
17 California.

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20 ROBERT GIRARDI
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In re:
Girardi Keese

Debtor(s).

CHAPTER: 7

CASE NUMBER: 20-bk-21022 BR

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
402 South Marengo Ave., Suite B
Pasadena, CA 91101

A true and correct copy of the foregoing document entitled (*specify*): **MOTION FOR ORDER: 1. APPOINTING ROBERT GIRARDI AS DEBTOR'S GUARDIAN AD LITEM; AND 2. EXTENSION OF TIME TO FILE RESPONSIVE PLEADING; DECLARATION OF ROBERT GIRARDI** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **1/13/2021**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Andrew Goodman on behalf of John Abassian agoodman@andyglaw.com
Andrew Goodman on behalf of Virginia Antonio agoodman@andyglaw.com
Andrew Goodman on behalf of Kimberly Archie agoodman@andyglaw.com
California Attorney Lending II, Inc. represented by Clifford S Davidson
Marshall J Hogan

William Savino represented by Ashleigh A Danker

Lei Lei Wang Ekvall
Richard W Esterkin
Timothy W Evanston
James Finsten
M. Jonathan Hayes
Lewis R Landau
Peter J Mastan
Edith R Matthai
Elissa Miller
Eric A Mitnick
Aram Ordubegian
Matthew D. Resnik
Ronald N Richards
Philip E Strok
Timothy J Yoo
Assigned: 01/05/21

Frantz Law Group, APLC represented by Razmig Izakelian
KCC Class Action Services, LLC represented by Marie E Christiansen

Robert M. Keese represented by Andrew Goodman
L.A. Arena Funding, LLC represented by Richard D Buckley

Jill O'Callahan
(Petitioning Creditor) represented by Andrew Goodman
Jason M Rund (TR)
(Trustee) represented by Carmela Pagay

Erika Saldana (Petitioning Creditor) represented by Andrew Goodman
William F Savino (Attorney) represented by Andrew Goodman
Judy Selberg (Creditor) represented by Eric Bryan Seuthe Gary A Starre
Starre & Cohn, APC represented by Gary A Starre

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In re: Girardi Keese	Debtor(s).	CHAPTER 7 CASE NUMBER 20-bk-21022 BR
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Stillwell Madison, LLC (Creditor) represented by Eric D Goldberg eric.goldberg@dlapiper.com
United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov
Wells Fargo Vendor Financial Services, Inc. (Creditor) represented by Jennifer Witherell Crastz
jcrastz@hrhlaw.com
Assigned: 12/28/20

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On 1/13/2021, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Hon. Barry Russell
United States Bankruptcy Court
255 E. Temple Street, Suite 1660 / Courtroom 1668
Los Angeles, CA 90012

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

January 13, 2021

JULIE SOMA

/s/ JULIE SOMA

Date

Printed Name

Signature